

Application No. 10/774,641  
Amendment dated May 23, 2006  
After Final Office Action of February 23, 2006

Docket No.: 2694-0140P

**REMARKS**

Claims 9-18 remain present in this application.

Claims 9 and 18 have been amended. Reconsideration of the application, as amended, is respectfully requested.

It is noted that an Information Disclosure Statement was submitted on February 16, 2006. As such, this was filed before the February 23, 2006 Final Office Action. **The Examiner is respectfully requested to confirm receipt of the Information Disclosure Statement, as well as consideration of the documents cited therein, by returning an initialed PTO/SB/08 form to the undersigned.**

Claims 9-18 stand rejected under 35 USC 103 as being unpatentable over Breen et al., U.S. Patent 4,570,229, in view of Jenne, U.S. Patent 5,913,371. This rejection is respectfully traversed.

As pointed out in the last Office Action, the patent to Breen et al. undertakes corrective action of adjusting a powder level, activating diverting gates and signals generated in response to the currents of one or more undesirable events for shutting down the tablet press. It was argued that this shutting down would not be changing the speed. In order to further clarify that the new speed to which the rotor is reduced is a non-zero speed, the foregoing change to claim 9 has been made. A similar change has been made to independent claim 18. The Examiner has already considered this position as noted on page 2 in the response. In particular, the Examiner alleges that the claim did not indicate that the new speed is a non-zero speed. In order to make this clear, the foregoing amendments have been made. As such, the claims should distinguish from the

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prior art utilized by the Examiner. It is respectfully submitted that this change should not raise new issues, since this position has already been considered by the Examiner.

In the present invention, the rotor is not turned off or shut down, but its speed can merely be controlled based on the circumstances. This is brought out in independent claims 9 and 18, and will avoid damage of the rotary tablet forming machine. This arrangement in the present invention is not related to improvement or maintenance of tablet quality, as is the concern of the Breen et al. patent. Reduction of rotor speed for protection of the speed is different from actions taken to control tablet quality according to the Breen et al. patent. The level of powder fill under the term "corrective action" is accomplished in the Breen et al. patent. Reduction of the rotor speed is not for corrective action in response to fluctuations in production of the present invention, but is a protective measure when the machine is in a start-up phase. Both independent claims 9 and 18 bring out that the method and device are for a rotor tablet forming machine during start-up of the machine. In the circumstances, the press mass may not be adequately filled and damage to the machine can occur if the rotor speed is not controlled. This has been recognized by the Applicants. The Breen et al. patent teaches limiting the rotor speed in order to control tablet quality. The present invention, on the other hand, is directed to preventing damage to the machine and does not strive for an optimal operational speed but merely a minimal speed. The Breen et al. device works in a different way. It would be unsuitable under normal conditions to run the machine with such a minimal speed.

The secondary reference to Jenne is simply non-analogous art. The Breen et al. patent is directed to a tablet press controller method. The Jenne patent, on the other hand, is directed to an apparatus for controlling the feed of a boring machine for making earth bores. One skilled in the

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tablet making art would not turn to a boring machine. There are completely different classifications for both patents. Simply because a computer search might turn up similar terms, does not make the art analogous. It is respectfully submitted that the Jenne patent is in no way related to a tablet press controller or method as disclosed in the Breen et al. patent.

The Examiner has responded that the problem of concern is the ability to slow or stop a machine based on readings obtained. However, independent claim 9 recites a method for control of a rotary tablet forming machine and independent claim 18 recites a device for control of a rotary tablet forming machine. None of these claims hint at a boring machine. There are many machines which may be stopped under certain circumstances. However, they are not in related art and would not lend themselves to incorporation into a rotary tablet forming machine. Again, it is strongly urged that a skilled artisan would not look to the Jenne patent when attempting to modify the Breen et al. patent. Non-analogous art has been combined and, as such, the rejection is improper. It is respectfully requested that the 35 USC 103 rejection now be reconsidered and withdrawn.

Favorable reconsideration and an early Notice of Allowance are earnestly solicited.

In the event that any outstanding matters remain in this application, the Examiner is invited to contact the undersigned at (703) 205-8000 in the Washington, D.C. area.

In the event the Examiner does not consider this application to be in condition for allowance, it is respectfully requested that this Amendment be entered for the purposes of Appeal. As noted above, the insertion of a "non-zero" speed should not raise new issues since this has already been considered by the Examiner as evidenced in the remarks of the final

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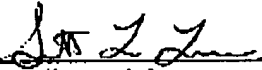
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rejection. Nonetheless, it is not anticipated that an appeal will be necessary since the instant application should now be in condition for allowance.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By   
Joe McKinney Muncy # 41,458  
Registration No.: 32,334  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant